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EXTRAORDINARY

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PART II—Section 2

प्राप्तिकार से प्रकाशित

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NEW DELHI, FRIDAY, JUNE 9, 1967/JYAISTHA 19, 1889

इस भाग में विल्ली पृष्ठ संख्या की जारी हो जिसमें कि यह प्रत्येक संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on the 9th June, 1967:—

BILL No. 74 of 1967

A Bill further to amend the Tea Act, 1953.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Tea (Amendment) Act, 1967. Short title.

2. In the Tea Act, 1953 (hereinafter referred to as the principal Act), in the long title, for the words "levy a customs duty on tea exported from India", the words "levy a duty of excise on tea produced in India" shall be substituted. Amendment of long title.

3. In section 3 of the principal Act, in clause (c), for the words "the customs-duty", the words "the duty of excise" shall be substituted. Amendment of section 3.

Substi-
tution of
new
section
for
section 25.

Imposition
of cess
on tea
produced
in India.

4. For section 25 of the principal Act, the following section shall be substituted, namely:—

"25. (1) There shall be levied and collected as a cess for the purposes of this Act a duty of excise on all tea produced in India at the rate of four paise per kilogram : 5

Provided that the Central Government may from time to time fix, by notification in the Official Gazette, a higher rate, not exceeding 8.8 paise per kilogram, at which the duty of excise shall be levied and collected.

(2) The duty of excise levied under sub-section (1) shall be 10
in addition to the duty of excise leviable on tea under the Central
Excises and Salt Act, 1944, or any other law for the time being 1 of 1944,
in force.

(3) The provisions of the Central Excises and Salt Act, 1944, 1 of 1944.
and the rules made thereunder, including those relating to refund 15
and exemption from duty, shall, so far as may be, apply in
relation to the levy and collection of the duty of excise under
this section as they apply in relation to the levy and collection
of duty of excise on tea under the said Act.".

Declaration under the Provisional Collection of Taxes Act, 1931 20

It is hereby declared that it is expedient in the public interest that the provisions of clauses 2, 3 and 4 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931.

16 of 1931,

STATEMENT OF OBJECTS AND REASONS

The Tea Board, a body set up under the Tea Act, 1953 (29 of 1953), to look after the development of the tea industry in India, is financed out of the proceeds of a cess levied on tea exported out of India, under section 25 of the Act. The current rate of the tea export cess is 4·4 paise per kilogram. The proceeds of the cess are initially credited to the Consolidated Fund of India and released therefrom to the Tea Board to meet its expenses.

The various activities undertaken by the Tea Board for the development of the tea industry and promotion of tea exports have expanded considerably and it has been found that the proceeds from the present cess on tea exports are not adequate to finance its activities. Moreover, if the tea industry is to develop on sound and proper lines and production and exports of tea are to be substantially increased, the expenditure of the Tea Board both in India and abroad has necessarily to be on a larger scale than at present in order to be commensurate with the desired results. It has, therefore, become necessary to take steps to augment the revenues from the cess so that the Tea Board can be financed adequately. This Bill accordingly seeks to provide for the levy of the cess not merely on tea exported out of India but on all tea produced in India and for its collection along with and in the same manner as the excise duty on tea. The Bill further provides that the new cess shall be levied at 4 paise per kilogram with immediate effect and that the Government may, if necessary, levy the cess at such higher rate, not exceeding 8.8 paise per kilogram, as may, from time to time, be fixed by notification in the Official Gazette.

NEW DELHI;

The 27th May, 1967.

DINESH SINGH.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to substitute a new section for section 25 of the Tea Act, 1953 and the proviso to sub-section (1) of new section 25 empowers the Central Government to fix, from time to time, by notification in the Official Gazette, a rate higher than 4 paise per kilogram but not exceeding 8·8 paise per kilogram, as the rate at which the cess by way of duty of excise on all tea produced in India shall be levied and collected for the purposes of the Act. This is intended to enable the Government to regulate the actual rate of the cess in future within the ceiling specified, in order to meet the actual financial requirements of the Tea Board, as estimated from time to time.

2. The delegation of legislative power is of normal character.

BILL No. 41 OF 1967

A Bill to set up Managing Councils in industrial concerns for participation of labour management.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Managing Council Act, 1967. Short title and
(2) It shall come into force at once. commencement.
- 5 2. In this Act, unless the context otherwise requires; Definitions.
 (a) "appropriate Government", "employer", and "industrial dispute" have the meanings assigned to them respectively in the Industrial Disputes Act, 1947.

(b) "trade union" has the meaning assigned to it in Indian Trade Unions Act, 1926.

XVI of
1926.

(c) "worker" has the meaning assigned to it in the Factories Act, 1948.

LXIII of
1948.

Constitution of Managing Councils in industrial establishments. 3. (1) In the case of any industrial establishment in which one hundred or more workers are employed or have been employed on any day in the preceding twelve months, the appropriate Government shall by general or special order, require the employer to constitute a Managing Council consisting of representatives of employers and workers engaged in the establishment within three months from the date of the order:

Provided that the number of representatives of workers on the Council shall not be less than the number of representatives of the employers:

Provided further that the number of members of the said Council shall not be less than four and more than twelve.

(2) The representatives of the workers shall be chosen in the general meeting of the workers employed in the establishment, presided over by Labour Inspector and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926. 20

XVI of
1926.

Powers and functions of the Managing Council. 4. (1) It shall be the duty of the Managing Council to promote measures for securing and preserving amity and good relations between the employers and workmen and to that end to decide matters of their common interest or concern and endeavour to compose any differences of opinion in respect of such matters.

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(2) Subject to the provisions of this section, the Managing Council shall be entitled to exercise all such powers as the employer is authorised to exercise and to do all such acts and things as the employer is authorised to do in the matters of production, workers' amenities and facilities provided under the various provisions of the 30 Factories Act, 1948 and any matter of common interest:

LXIII of
1948.

Provided that it shall have no say in the purchase or sale of any goods or property on behalf of the industrial establishment but all accounts will be placed in the meeting of the Managing Council.

(3) The Managing Council shall decide all industrial disputes 35 provided in the schedules of Industrial Disputes Act, 1947, and unanimous decisions of the Council shall be final and binding upon all the parties and no appeal shall lie against the orders of the Council.

XIV of
1947.

(4) Where the dispute is not settled, the Managing Council may, in writing refer it to a tribunal for adjudication, the decision of which shall be binding and no appeal shall lie against the order of the tribunal.

5. (1) At least one meeting of the Managing Council shall be held in a month.

(2) The quorum to constitute a meeting shall be one third of the total number of members of the Managing Council.

(3) The representatives of employers and workmen shall preside over the meetings of the Managing Council by rotation.

STATEMENT OF OBJECTS AND REASONS

The purpose of the present Bill is to establish Managing Councils consisting of employers and employees in industrial establishments, which will promote measures for securing and preserving amity and good relations between the employers and employees and shall decide all matters of common interest, they shall also try to resolve differences between the two parties as far as possible.

Besides, the Council will manage all matters of the industrial establishments in respect of production, workers' amenities and facilities.

The Councils will also decide all disputes between employer and employees and its decision shall be final.

NEW DELHI;
The 27th April, 1967.

RAM KISHAN GUPTA

BILL No. 45 OF 1967

A Bill to provide for the appointment of an Investigation Commission for enquiring into complaints of corruption against public servants or public men and for matters connected therewith.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Investigation Commission Act, Short title extent and commencement. 1967.

5 (2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "corruption" means making wrongful gain, directly or indirectly for himself or for any other person by misuse of one's position as a public man or as a public servant;

(b) "public men" means Ministers and Deputy Ministers of Central and State Governments, Members of Parliament and State Legislatures, Members of the executive committees of all political parties at all levels which have been recognised for assignment of symbols for election purposes by the Election Commission of India and other non-officials placed in high positions; 10

(c) "public servant" has the same meaning as in section 21 45 of 1960. of the Indian Penal Code, 1860;

(d) "wrongful gain" has the same meaning as in the Indian Penal Code, 1860. 45 of 1860.

Appointment of Investigation Commission.

3. The Central Government shall appoint an Investigation Commission for the purpose of making an enquiry into any complaint of corruption or wrongful gain against any public servant or public man. 15

Enquiry by Investigation Commission.

4. (a) Whenever the Central Government receives any complaint of corruption or wrongful gain against any public servant or public man or otherwise comes to know of it, the Central Government may refer it to the Investigation Commission for the purpose of making enquiry into it, if the nature of the complaint is such that it requires enquiry; 20

(b) the Investigation Commission may receive any such complaint directly but it shall not make any enquiry into it without the sanction of the Central Government. 25

Powers of the Investigation Commission.

5. (1) The Investigation Commission shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:— 30 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office; 35

(e) issuing commissions for the examination of witnesses or documents; and

(f) any other matter which may be prescribed.

(2) The Investigation Commission shall have power to require any person subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Investigation Commission may be useful for, or relevant to, the subject matter of the inquiry.

(3) The Investigation Commission or any officer, not below the rank of a gazetted officer, specially authorised in this behalf by the Investigation Commission, may enter any building or place where the Investigation Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or documents or take extracts or copies therefrom subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898 in so far as they may be applicable.

5 of 1898.

45 of 1860.

(4) Any proceedings before the Investigation Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code, 1860.

20 6. (1) After completion of inquiry the Investigation Commission shall submit the report to the Central Government.

(2) After receiving the reports from the Investigation Commission, the Central Government shall examine it and take appropriate action.

Report
of the
Investi-
gation
Commis-
sion.

STATEMENT OF OBJECTS AND REASONS

There are numerous complaints of corruption and wrongful gain against Ministers and Deputy Ministers etc. of the Central and State Governments. At present there is no effective machinery to deal with these complaints. The purpose of the present Bill is to provide such machinery so that the complaints of corruption and wrongful gain may be enquired into and suitable action taken.

NEW DELHI;
The 27th April, 1967.

RAM KISHAN GUPTA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the appointment of an Investigation Commission for enquiring into complaints of corruption against any public servant or public man.

2. At this stage it is not possible to frame an accurate estimate of the funds needed for this purpose. The expenditure can, however, be met by re-appropriation from the existing Demand of the Ministry of Home Affairs.

BILL No. 46 of 1967

A Bill to merge all subsidiary banks with State Bank of India.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title 1. (1) This Act may be called the Subsidiary Banks Merger and com-
 Act, 1967.

**men-
ment.** (2) It shall come into force at once.

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**Defini-
tions.** 2. In this Act, unless the context otherwise requires,—

 (a) “appointed day” means the date on which Subsidiary Banks are merged with the State Bank of India;

2 of 1934. (b) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

23 of 1955. (c) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;

38 of 1959. 5 (d) "Subsidiary Bank" means any new bank constituted under the State Bank of India (Subsidiary Banks) Act, 1959, and includes the Hyderabad Bank and Saurashtra Bank.

3. With effect from such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, all 10 subsidiary banks shall be merged with the State Bank of India. Merger of subsidiary banks.

4. The Branches of all the subsidiary banks merged with State Bank of India established before the appointed day shall be considered as branches of State Bank of India. Branches.

15 5. Subject to the other provisions contained in this Act, the undertakings of the subsidiary banks shall stand transferred to, taking and vest in, the State Bank.

20 6. Save as otherwise provided in this Act, every employee of subsidiary banks in the employment of these banks immediately before the appointed day, shall, on and from that day, become an employee of the State Bank of India, and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held as an employee of the State Bank. Conditions of service etc. of employees.

25 7. For the purpose of facilitating the full and effective transfer of the undertaking of subsidiary banks in accordance with provisions of this Act or in order to remove any difficulty which in the opinion of the Central Government has arisen or is likely to arise in connection with such transfer, the Central Government may in consultation with Reserve Bank, give such direction to any subsidiary bank or the State Bank as appear to it to be necessary and the said bank or the State Bank as the case may be, shall comply with such directions. Directions by Government.

STATEMENT OF OBJECTS AND REASONS

The purpose of the present Bill is to merge all subsidiary banks constituted under the State Bank of India (Subsidiary Banks) Act, 1959 including the Hyderabad Bank and Saurashtra Bank with State Bank of India so that all Government Banks may become part and parcel of State Bank of India. By doing so the efficiency of the banking system will be improved and all Government Banks will come under one system.

NEW DELHI;

RAM KISHAN GUPTA.

The 27th April, 1967

BILL No. 59 OF 1967

A Bill to provide for punishment to persons found guilty of treason and matters connected therewith.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Treason Act, 1967.

Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "enemy" shall have the same meaning as in section 2 of the Defence of India Act, 1962 and includes a person who be-

haves in a manner prejudicial to the defence of Indian territory or any part thereof;

(b) "enemy agent" means any person acting on behalf of, or for or in the interests of, an enemy and in a manner prejudicial to the interest of the Indian nation;

(c) "official secrets" has the same meaning as in the Indian Official Secrets Act, 1923;

19 of 1923.

(d) "sabotage" means an act of destruction or an attempt to destroy any public property, or property belonging to a citizen of India which is deemed to be important for the defence and security of the country;

(e) "treason" means an attempt to overthrow by a person or a group of persons the legally constituted Government of India otherwise than through constitutional means, or an attempt to overthrow the Government by force or treachery, or disloyalty to the cause of the Indian nation.

Penalty.

3. (1) Whoever is suspected of an act of treason or an attempt to commit treason, shall be apprehended at once without a warrant and shall be tried in a summary way by a tribunal appointed by the Government of India, consisting of one or more persons having the powers of a court of law for the purposes of this Act and, if found guilty, shall be sentenced to death.

(2) Whoever is suspected of being an enemy agent by a competent authority constituted by the Government of India shall be apprehended at once and after a trial in a summary way by a military or a civil court shall be punished with rigorous imprisonment for a term of ten years or may be sentenced to death if the gravity of the offence is such that it is not in the interest of the nation to keep such a person under imprisonment.

(3) A person holding office under the Government of India, or a State Government, or a local authority, or a public undertaking, if found guilty of—

(i) sabotage; or

(ii) an attempt to commit sabotage; or

(iii) sheltering or keeping of—

(a) an enemy agent; or

(b) a person committing treason; or

(c) any person attempting to commit treason or divulging any official secret to an enemy or an enemy agent; or

(d) any person whose bona fides are of a doubtful nature or who is likely to commit an act prejudicial to the interest of the Indian nation,

shall be removed from such service forthwith and shall be punishable with rigorous imprisonment for a term of ten years or with fine, or with both:

Provided that nobody shall be prosecuted unless it is recommended by a panel of three persons who are or have served as Judges of the Supreme or High Courts.

STATEMENT OF OBJECTS AND REASONS

Recently, there have been violations of Indian territory and armed attacks upon India by certain countries. Such countries are likely to try to change the lawful Government of the country through acts of treason and sabotage.

The Bill seeks to provide for penalties for activities like treason, sabotage etc., aimed at overthrowing the lawful Government through means other than constitutional, thereby weakening the Indian nation in its efforts to thwart the evil intentions of the enemy.

NEW DELHI;
The 27th April, 1967.

YASHPAL SINGH.

FINANCIAL MEMORANDUM

The Bill provides for the constitution of a tribunal and a panel of three persons for the purpose of investigation into, and trial of, cases of treason. The appointment of a panel and the tribunal will involve expenditure from the Consolidated Fund of India. It is likely to be Rs. 2,50,000 per month.

BILL No. 42 OF 1967

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title and commencement
ment.

1. (a) This Act may be called the Indian Penal Code (Amendment) Act, 1967.

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Amend-
ment of
Section
405.

(b) It shall come into force at once.

2. In section 405 of the Indian Penal Code, 1860 (hereinafter referred to as the principal Act)—

45 of 1860.

(i) after the words 'direction of law', the words, "or of any condition, express or implied," shall be inserted;

(ii) after the words, 'such trust', the words, "express or constructive,", shall be inserted.

Amend-
ment of
Section
406.

3. In section 406 of the principal Act, for the words, "three years, or with fine, or with both", the words "five years and shall also be liable to fine" shall be substituted.

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The purpose of the present Bill is to make section 405 of the Indian Penal Code, 1860, more specific and clear so that action may be taken against any person who violates any express or implied condition of any express or constructive trust, and also to make the offence of criminal breach of trust more severely punishable.

NEW DELHI;

The 29th April, 1967.

RAM KISHAN GUPTA.

BILL NO. 48 OF 1967

A Bill further to amend the Representation of the People Act, 1951.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Representation of the People (Amendment) Act, 1967.

2. In section 77 of the Representation of the People Act, 1951,— Amend-
ment of
ris ed by him", the words "or by his party" shall be inserted; section
77.

5 (b) after sub-section (1), the following proviso shall be added:—

10 "Provided that where a party incurs expenditure on a candidate standing from a Parliamentary constituency which is comprised of one or many Assembly constituencies and the party is also sponsoring other candidates from such constituencies, the expenditure so incurred on the candidates shall be divided among them in such proportion as may be prescribed by rules."

STATEMENT OF OBJECTS AND REASONS

Expenditure incurred by a party on a candidate is at present not included in the election expenses of the candidate. This is not desirable for the healthy development of democratic institutions. It is, therefore, proposed to amend section 77 of the Representation of the People Act, 1951 so as to include such expenditure in the election expenses of the candidate. The present Bill aims to achieve this object.

NEW DELHI;

YASHPAL SINGH.

The 3rd May, 1967.

BILL NO. 49 OF 1967

A Bill to provide for prohibition of manufacture and import of hydrogenated vegetable oils in India.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Manufacture and Import of Hydrogenated Vegetable Oils Act, 1967.
Short title,
- 5 (2) It extends to the whole of India.
extent and com-
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
mence-ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "hydrogenation" means the process of passing hydrogen gas through vegetable oils.

(b) "vegetable oils" include coconut, groundnut, cotton seed, sesamum, til and rapeseed oils and such other oils as are used or are usable for the manufacture of hydrogenated vegetable oils popularly known as *vanaspati ghee*.

3. The manufacture or import into the Indian Union of hydrogenated vegetable oils, popularly known as *vanaspati ghee*, is hereby prohibited.

15 11 10

Prohibition of manufacture and import of hydrogenated vegetable oils.

Punishment for manufacture or import of hydrogenated vegetable oils.

Forfeiture of certain property used in the commission of the offence.

4. Any person who manufactures or imports or abets the manufacture or import of hydrogenated vegetable oils into the Indian Union shall be punished with imprisonment of either description for a term which may extend to one year.

5. Whenever any offence relating to the manufacture or import 15 of hydrogenated vegetable oils has been proved to have been committed, the Court shall order that the machinery, utensils, receptacles, instruments or any other article used for the manufacture of hydrogenated vegetable oils together with the components, semi-finished or finished goods or the imported vegetable oils, as the case 20 may be, be forfeited to the Government.

Issue of search warrants, disposal of property seized and appeals.

6. (1) If a District Magistrate, Sub-Divisional Magistrate or a Magistrate of the First Class specially empowered in this behalf, upon information and after such enquiry as he thinks necessary, has reason to believe that any place is being used for the manufacture of hydrogenated vegetable oils or for the deposit of imported hydrogenated vegetable oils, he may, by warrant, authorise any Police Officer above the rank of a constable, to enter, with such assistance as may be required, such place and to search the same and take into possession any machinery, utensils, receptacles, instruments or any other article used for the manufacture of hydrogenated

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5 of 1898.

vegetable oils together with the components, semi-finished or finished goods or imported hydrogenated vegetable oils, as the case may be, in accordance with the general provisions of the Code of Criminal Procedure, 1898 relating to searches, and make a report to the Court 5 as to how the warrant has been executed and what goods or articles have been taken into possession.

(2) The Court may make such orders as it thinks fit for the proper custody of the articles or goods taken into possession on search pending the conclusion of the enquiry or trial, and after conclusion 10 of the enquiry or trial, order the destruction, forfeiture or sale of any such articles or goods, as the case may be:

Provided that the Court shall order the return of the articles or goods seized to the person entitled to the possession thereof, if it finds that the articles were not meant for use in the manufacture of 15 hydrogenated vegetable oils or the goods seized were not hydrogenated vegetable oils, indigenous or imported.

(3) Any person aggrieved by an order made under Section 5 or this section may appeal against the order to the Court to which appeals ordinarily lie from such subordinate Court.

STATEMENT OF OBJECTS AND REASONS

This Bill aims at prohibiting the manufacture and import of what is popularly known as *vanaspati ghee*. The stuff known as *vanaspati ghee* is in fact no ghee at all, but it is hydrogenated vegetable oil and that too of inferior quality from the point of nutrition. Because of its texture and consistency, it renders itself capable of adulteration with pure *ghee* without the possibility of detection.

In the last few years the manufacture of hydrogenated vegetable oils has increased to such an extent and the manufacturing interests have become so powerful and influential that in spite of its most baneful effects on the physical health and rural economy of the country, the Government has not been able to check its growth.

It has been proved by experiments carried out in Government laboratories that its use is detrimental to health. The demand in the country for prohibiting the manufacture and import of *vanaspati ghee* is also very strong.

Hence this Bill.

NEW DELHI;

YASHPAL SINGH.

The 3rd May, 1967.

BILL NO. 57 OF 1967

A Bill to amend the law relating to the hire-purchase of goods.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

- 5 1. (1) This Act may be called the Hire-Purchase Act, 1967.
 (2) It extends to the whole of India except the State of Jammu
and Kashmir.
 (3) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) "contract of guarantee", in relation to any hire-purchase agreement, means a contract, which guarantees the performance of all or any of the hirer's obligations under the hire-purchase agreement; and the expression "surety" shall be construed accordingly;

(b) "hire" means the sum payable periodically by the hirer under a hire-purchase agreement;

(c) "hire-purchase agreement" means an agreement under which goods are let on hire and under which the hirer has an option to purchase them in accordance with the terms of the agreement;

and includes an agreement under which—

(i) possession of goods is delivered to another person, on condition that he pays an agreed amount in periodical instalments, and

(ii) the property in the goods is to pass to such person on the payment of the last of such instalments, and

(iii) such person has a right to terminate the agreement at any time before the property so passes;

(d) "hire-purchase price" means the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of the goods to which the agreement relates; and includes any sum payable by the hirer under the hire-purchase agreement by way of a deposit or other initial payment, or credited or to be credited to him under such an agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the owner or to any other person or is to be or has been discharged by a payment of money or by the transfer or delivery of goods or by any other means;

but does not include any sum payable as a penalty or as compensation or damages for a breach of the agreement;

(e) "hirer" means the person who obtains or has obtained possession of goods from an owner under a hire-purchase agreement, and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;

(f) "owner" means the person who lets or has let goods to a hirer under a hire-purchase agreement, and includes a

person to whom the owner's property in the goods or any of the owner's rights or liabilities under the agreement has passed by assignment or by operation of law; and

5 (g) all words and expressions used and not defined in this Act but defined in the Indian Sale of Goods Act, 1930, shall have the meanings respectively assigned to them in that Act.

CHAPTER II

Form and contents of Hire-purchase agreements

3. (1) Every hire-purchase agreement shall be—

- 10 (a) in writing, and
 (b) signed by all the parties thereto.

(2) A hire-purchase agreement shall be void if in respect thereof, any of the requirements specified in sub-section (1) has not been complied with.

15 (3) Where there is a contract of guarantee, the hire-purchase agreement shall be signed by the surety also, and if the hire-purchase agreement is not so signed, the hire-purchase agreement shall be voidable at the option of the owner.

4. (1) Every hire-purchase agreement shall state—

20 (a) the hire-purchase price of the goods to which the agreement relates;

(b) the cash price of the goods, that is to say, the market value of the goods on the date of the agreement;

25 (c) the date on which the agreement shall be deemed to have commenced;

(d) the number of the instalments by which the hire-purchase price is to be paid, the amount of each of those instalments, and the date, or the mode of determining the date, upon which it is payable, and the person to whom and the place where it is payable; and

30 (e) the goods to which the agreement relates, in a manner sufficient to identify them.

(2) Where any part of the consideration for a hire-purchase agreement is or is to be provided otherwise than in cash, the hire-purchase agreement shall contain a description of that part of the consideration.

Hire-pur-
chase
agree-
ments to
be in
writing
and signed
by all
parties.

Contents
of hire-
purchase
agree-
ments.

(3) Where any of the requirements specified in sub-section (1) or sub-section (2) has not been complied with, the hirer may institute a suit for getting the hire-purchase agreement rescinded; and the court may, if it is satisfied that the failure to comply with any such requirement has prejudiced the hirer, rescind the agreement 5 on such terms as it thinks just, or pass such other order as it thinks fit in the circumstances of the case.

**Two or
more
agree-
ments
when
treated
as a single
hire-pur-
chase
agree-
ment.**

5. Where by virtue of two or more agreements in writing, none of which by itself constitutes a hire-purchase agreement, there is a bailment of goods and the bailee has an option to purchase the goods, 10 and the documents taken together comply with the requirements specified in sections 3 and 4, the agreements shall be treated for the purposes of this Act as a single hire-purchase agreement made at the time when the last of the agreements was made.

CHAPTER III

15

Warranties and conditions, and passing of property

**Warranties
and condi-
tions to be
implied in
hire-pur-
chase
agree-
ments.**

6. (1) Notwithstanding any agreement to the contrary, in every hire-purchase agreement there shall be an implied warranty—

(a) that the hirer shall have and enjoy quiet possession of the goods, and

(b) that the goods shall be free from any charge or encumbrance in favour of any third party at any time when the property is to pass.

(2) Notwithstanding any agreement to the contrary, in every hire-purchase agreement there shall be—

(a) an implied condition on the part of the owner that he shall have a right to sell the goods at any time when the property is to pass;

(b) an implied condition that the goods shall be of merchantable quality, but no such condition shall be implied by 30 virtue of this clause—

(i) as regards defects of which the owner could not reasonably have been aware at the time when the agreement was made, or

(ii) where the hirer has examined the goods or a 35 sample thereof, as regards defects which the examination ought to have revealed, or

(iii) if the goods are second-hand goods and the agreement contains a statement to that effect.

(3) Where the hirer expressly or by implication makes known the particular purpose for which the goods are required, there shall be an implied condition in every hire-purchase agreement that the goods shall be reasonably fit for such purpose.

(4) An owner shall not be entitled to rely on any provision in a hire-purchase agreement excluding or modifying the condition set out in sub-section (3) unless he proves that before the agreement was made the provision was brought to the notice of the hirer and its effect made clear to him.

(5) Nothing in this section shall prejudice the operation of any other enactment or rule of law whereby any condition or warranty is to be implied in any hire-purchase agreement.

15 7. Subject to the provisions of this Act, the property in the goods to which the hire-purchase agreement relates shall pass to the hirer only on the completion of the purchase in the manner provided in the agreement.

CHAPTER IV

20 *Rights and obligations of the hirer*

8. (1) The hirer may, at any time during the continuance of the hire-purchase agreement and after giving to the owner not less than fourteen days' notice in writing of his intention so to do, purchase the goods to which the agreement relates on payment of the hire-purchase price as reduced by the amounts already paid by him to the owner towards the hire-purchase price and as further reduced by a rebate calculated in the manner provided in sub-section (2).

(2) The rebate for the purposes of sub-section (1) shall be equal to two-thirds of an amount which bears to the hire-purchase charges the same proportion as the balance of the hire-purchase price not yet due bears to the hire-purchase price.

Explanation.—In this sub-section, "hire-purchase charges" means the difference between the hire-purchase price and the cash price as stated in the hire-purchase agreement.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary contained in the hire-purchase agreement, but where the terms of the agreement entitle the hirer to a rebate higher than that allowed by this section the hirer shall be entitled to the rebate provided by the agreement.

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(4) The Central Government may, by notification in the Official Gazette, declare that this section shall not apply or shall apply with such modifications as may be specified in the notification, to any goods or classes of goods, where it is satisfied that having regard to the fact that such goods or classes of goods are in short supply or are subject to restrictions in respect of import or similar considerations, such declaration is necessary in the public interest.

Right of
hirer to
terminate
agree-
ment at
any time.

9. (1) The hirer may, at any time before the final payment under the hire-purchase agreement falls due, and after giving not less than fourteen days' notice in writing of his intention so to do and re-delivering the goods to the owner or tendering them to the owner, terminate the hire-purchase agreement by payment or tender to the owner of the amounts which have accrued due towards the hire-purchase price and have not been paid by him, including the sum, if any, which he is liable to pay under sub-section (2).

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(2) Where the hirer terminates the agreement under sub-section (1), and the agreement provides for the payment of a sum named on account of such termination, the liability of the hirer to pay that sum shall be subject to the following conditions:—

(a) where the total of the sums paid and the sums due in respect of the hire-purchase price immediately before the termination exceeds one-half of the hire-purchase price, the hirer shall not be liable to pay the sum so named;

(b) where the total of the sums paid and the sums due in respect of the hire-purchase price immediately before the termination does not exceed one-half of the hire-purchase price, the hirer shall be liable to pay the difference between the said total and the said one-half, or such less sum as may be named in the agreement;

(c) nothing in this sub-section shall prejudice any liability of the hirer for any hire which might have accrued due before the termination.

(3) Any provision in any agreement, whereby the right conferred on a hirer by this section to terminate the hire-purchase agreement is excluded or restricted, or whereby any liability in addition to the liability imposed by this Act is imposed on a hirer by reason

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of the termination of the hire-purchase agreement by him under this section, shall be void.

(4) Nothing in this section shall prejudice any right of a hirer to terminate a hire-purchase agreement otherwise than by virtue of § this section.

10. A hirer who is liable to make payments in respect of two or more hire-purchase agreements to the same owner shall, notwithstanding any agreement to the contrary, be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to appropriate the sum so paid by him in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any two or more of the agreements in such proportions as he thinks fit, and, if he fails to make any such appropriation as aforesaid, the sum so paid shall, by virtue of this section, stand appropriated towards the satisfaction of the sums under the respective hire-purchase agreements in the order in which the agreements were entered into.

11. (1) The right, title and interest of a hirer under a hire-purchase agreement may be assigned with the consent of the owner or, if his consent is unreasonably withheld, without his consent.

(2) Except as otherwise provided in this section, no payment or other consideration shall be required by an owner for his consent for such an assignment as is mentioned in sub-section (1), and where an owner requires any such payment or any other consideration for his consent, that consent shall be deemed to be unreasonably withheld.

(3) Where on a request for his consent thereto being made by a hirer the owner fails or refuses to give his consent to such an assignment as is mentioned in sub-section (1), the hirer may apply by petition to the court for an order declaring that the consent of the owner to the assignment has been unreasonably withheld, and where such an order is made that consent shall be deemed to be unreasonably withheld.

35 *Explanation.*—In this section “court” means a court which would have jurisdiction to entertain a suit for the relief claimed in the petition.

(4) As a condition of granting such consent, the owner may stipulate that all defaults under the hire-purchase agreement shall be made good and may require the hirer and the assignee to execute

and deliver to the owner an assignment agreement, in a form approved by the owner, whereby, without prejudicing or affecting the continuing personal liability of the hirer in such respects the assignee agrees with the owner to be personally liable to pay the instalments of hire remaining unpaid and to perform and observe all other stipulations and conditions of the hire-purchase agreement during the residue of the term thereof and whereby the assignee indemnifies the hirer in respect of such liabilities.

(5) The provisions of this section shall apply notwithstanding anything to the contrary contained in the hire-purchase agreement.

Obliga-
tions of
the hirer
to comply
with the
agreements.

12. Subject to the provisions of this Act, the hirer shall be bound--

- (a) to pay the hire in accordance with the agreement, and
- (b) otherwise to comply with the terms of the agreement.

Obliga-
tions of
the hirer
in respect
of care
to be
taken
of goods.

13. (1) The hirer is, in the absence of a contract to the contrary,--

(a) bound to take as much care of the goods to which the hire-purchase agreement relates to as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value; and

(b) not responsible for the loss, destruction or deterioration of the goods, if he has taken the amount of care thereof described in clause (a).

(2) The hirer is liable to make compensation to the owner for any damage caused by failure to take care of the goods in accordance with the provisions of sub-section (1).

Obliga-
tion of
hirer in
respect
of use of
goods.

14. If the hirer makes any use of the goods to which the hire-purchase agreement relates which is not according to the conditions of the agreement, the hirer shall be liable to make compensation to the owner for any damage arising to the goods from or during such use of them.

Obliga-
tion of
hirer to
give infor-
mation as
to where-
abouts of
goods.

15. (1) Where by virtue of a hire-purchase agreement a hirer is under a duty to keep the goods comprised in the agreement in his possession or control, the hirer shall, on receipt of a request in writing from the owner, inform the owner where the goods are at the time when the information is given or, if it is sent by post, at the time of posting.

(2) If a hirer fails without reasonable cause to give the said information within fourteen days of the receipt of the notice, he shall be punishable with fine which may extend to two hundred rupees.

CHAPTER V

Rights and obligations of the owner

16. Where the hirer—

- 5 (a) makes default in the payment of hire as provided in the hire-purchase agreement; or
- 10 (b) does any act with regard to the goods to which the agreement relates which is inconsistent with any of the terms of the agreement; or
- 15 (c) breaks an express condition which provides that, on the breach thereof, the owner may terminate the agreement;
- 20 the owner shall, subject to the provisions of sections 19 and 20, be entitled to terminate the agreement by giving to the hirer notice of termination in writing.

Rights of owner to terminate hire-purchase agreement for default in payment of hire or unauthorised act or breach of express conditions.

17. Where a hire-purchase agreement is terminated under this Act, then the owner shall be entitled,—

- 15 (a) to retain the hire which has accrued due and which has already been paid;
- 20 (b) to recover the arrears of hire due;
- 25 (c) subject to the provisions of sub-section (2) of section 9, to forfeit the initial deposit, if so provided in the agreement;
- 30 (d) subject to the provisions of section 18, and subject to any contract to the contrary, to seize the goods;
- 35 (e) subject to the provisions of sections 19 and 20, to recover possession of the goods by suit or by petition under section 18; and
- 40 (f) to damages for non-delivery of the goods, from the date on which the termination is effective, to the date on which the goods are delivered to or seized by the owner.

18. (1) Where goods have been let under a hire-purchase agreement and the statutory proportion of the hire-purchase price has been paid, whether in pursuance of a judgment or otherwise, or tendered by or on behalf of the hirer or any surety, the owner shall not enforce any right to recover possession of the goods from the hirer otherwise than by petition under sub-section (3) or by suit.

35 *Explanation.—In this section, “statutory proportion” means—*

- (a) one-half, where the hire-purchase price is fifteen thousand rupees or less, and

Restriction on owner's right to recover possession of goods otherwise than through Court.

(b) three-fourth, in other cases.

(2) If the owner recovers possession of goods in contravention of the provisions of sub-section (1), the hire-purchase agreement, if not previously terminated, shall terminate, and—

(a) the hirer shall be released from all liability under the 5 agreement and shall be entitled to recover from the owner all sums paid by the hirer under the agreement or under any security given by him in respect thereof; and

(b) any surety shall be entitled to recover from the owner 10 all sums paid by him under the contract of guarantee or under any security given by him in respect thereof.

(3) Where, by virtue of the provisions of sub-section (1), the owner is precluded from enforcing a right to recover possession of the goods, he may present a petition for recovery of possession of the goods to any court having jurisdiction to entertain a suit for the 15 same relief.

(4) The provisions of this section shall not apply in any case in which the hirer has terminated the agreement by virtue of any right vested in him.

Relief
against
termina-
tion for
non-pay-
ment of
hire.

19. Where the owner, after he has terminated the hire-purchase 20 agreement in accordance with the provisions of clause (a) of section 16, institutes any suit or presents any petition against the hirer for the recovery of the goods, and at the hearing of the suit or petition, the hirer pays or tenders to the owner the hire in arrears, together with such interest thereon as may be payable under the terms of 25 the agreement and his full costs of the suit or petition and complies with such other conditions, if any, as the court may think fit to impose, the court may, in lieu of making a decree or order for specific delivery, pass an order relieving the hirer against the termination; and thereupon the hirer shall continue in possession of the goods as 30 if the agreement had not been terminated.

Relief
against
termina-
tion for
unautho-
rised act
or breach
of express
condition.

20. (1) Where a hire-purchase agreement has been terminated in accordance with the provisions of clause (b) or clause (c) of section 16, no suit or petition by the owner against the hirer for the recovery of the goods shall lie unless and until the owner has served on the 35 hirer a notice in writing—

(a) specifying the particular breach or act complained of;
and

(b) if the breach or act is capable of remedy, requiring the hirer to remedy it; and the hirer fails, within a period of fourteen days from the date of the service of the notice, to remedy the breach or act if it is capable of remedy.

5 (2) Nothing in this section shall apply to an express condition relating to termination in case of non-payment of hire.

21. (1) It shall be the duty of the owner to supply, free of cost, a true copy of the hire-purchase agreement, signed by the owner,—

10 (a) to the hirer, as soon as may be after execution of the agreement; and

(b) where there is a contract of guarantee, to the surety, on demand made at any time before the final payment has been made under the agreement.

15 (2) It shall also be the duty of the owner, at any time before the final payment has been made under the hire-purchase agreement, to supply to the hirer, within fourteen days after the owner receives a request in writing from the hirer in this behalf and the hirer tenders to the owner the sum of one rupee for expenses, a statement signed by the owner or his agent showing—

20 (a) the amount paid or on behalf of the hirer;

(b) the amount which has become due under the agreement but remains unpaid and the date upon which each unpaid instalment became due, and the amount of each such instalment; and

25 (c) the amount which is to become payable under the agreement, and the date or the mode of determining the date upon which each future instalment is to become payable, and the amount of each such instalment.

(3) Where there is a failure without reasonable cause to carry out the duties imposed by sub-section (1), or sub-section (2) then, while the default continues,—

30 (a) the owner shall not be entitled to enforce the agreement against the hirer or to enforce any contract of guarantee relating to the agreement, or to enforce any right to recover the goods from the hirer, and

35 (b) no security given by the hirer in respect of money payable under the agreement or given by a surety in respect of money payable under such a contract of guarantee as aforesaid shall be enforceable against the hirer or the surety by any holder thereof;

and, if the default continues for a period of one month, the defaulter shall be punishable with fine which may extend to two hundred rupees.

CHAPTER VI

Miscellaneous

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**Discharge
of price
otherwise
than by
payment
of money.**

22. Where an owner has agreed that any part of the hire-purchase price may be discharged otherwise than by the payment of money, any such discharge shall, for the purposes of sections 8, 9, 18 and 21, be deemed to be a payment of that part of the hire-purchase price.

**Insolvency
of hirer.**

23. (1) Where, during the continuance of the hire-purchase agreement, the hirer is adjudged insolvent under any law relating to insolvency for the time being in force, the Official Receiver shall have, in respect of the goods which are in the possession of the hirer under the agreement, the same rights and obligations as the hirer had in relation thereto.

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(2) The Official Receiver may, with the permission of the Insolvency Court, and notwithstanding anything to the contrary contained in the hire-purchase agreement, assign the rights of the hirer under the agreement, to any other person, and the assignee shall have all the rights and be subject to all the obligations of the hirer under the agreement.

5 of 1920.

Explanation.—In this section, “Official Receiver” means an Official Receiver appointed under the Provincial Insolvency Act, 1920, and includes any person holding a similar office under any other law relating to insolvency for the time being in force.

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**Succes-
sive hire-
purchase
agreement
between
the same
parties.**

24. Where goods have been let under a hire-purchase agreement, and at any time thereafter the owner makes a further hire-purchase agreement with the hirer relating to other goods, any such further hire-purchase agreement shall not have effect in so far as it affects prejudicially any right which the hirer would have had by virtue of section 18 under the first-mentioned agreement, if such further hire-purchase agreement had not been made.

**Evidence
of adverse
detention
in suit or
petition
to recover
possession
of the
goods.**

25. (1) Where, in suit or petition by an owner of goods which have been let under a hire-purchase agreement to enforce a right to recover possession of the goods from the hirer, the owner proves that, before the commencement of the suit or petition and after the right to recover possession of the goods accrued, the owner made a request

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in writing to the hirer to surrender the goods, the hirer's possession of the goods shall, for the purpose of the owner's claim to recover possession thereof, be deemed to be adverse to the owner.

(2) Nothing in this section shall affect a claim for damages for conversion.

26. If, whilst by virtue of this Act the enforcement by an owner Hirer's of a right to recover possession of goods from a hirer is subject to refusal to any restriction, the hirer refuses to give up possession of the goods to the owner, the hirer shall not, by reason only of the refusal, be liable to the owner for conversion of the goods.

refusal to
surrender
goods not
to be con-
version in
certain
cases.

27. Any notice required or authorised to be served on or given to Service of an owner or a hirer under this Act may be so served or given— notice.

- (a) by delivering it to him personally; or
(b) by posting it addressed to him at his last known place
¹⁵ of residence or business.

28. This Act shall not apply in relation to any hire-purchase Act not to agreement made before the commencement of this Act.

apply to
existing
agree-
ments.

STATEMENT OF OBJECTS AND REASONS

In its 20th Report, the Law Commission had recommended that a separate law should be enacted for regulating hire-purchase transactions. Even though this Report was presented in May, 1961, no law on the lines suggested by the Commission has so far been brought forward by Government. As more and more people are resorting to hire-purchase system, it is high time that a law safeguarding the interests of both the parties be put on the Statute-book. The present Bill aims to achieve this object.

NEW DELHI;

YASHPAL SINGH

The 3rd May, 1967.

BILL No. 65 OF 1967

A Bill further to amend the Payment of Wages Act, 1936.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Payment of Wages (Amendment) Act, 1967. Short title.
2. Sub-section (6) of section 1 of the Payment of Wages Act, 1936 Amendment of section 1.
5 (hereinafter referred to as the principal Act), shall be omitted.
3. In section 15 of the principal Act,—
 - (1) after sub-section (2), the following new sub-section shall be inserted, namely,—

“(2A) Notwithstanding anything contained in the foregoing provisions of this Act, where the wages of an employed person remain unpaid on the date of termination of his employment, an application may be presented to the authority appointed under sub-section (1) within six months from

the date of such termination of employment for a direction under sub-section (3):

Provided that any such application shall be admitted though it relates to unpaid wages for an earlier wage period than within six months before the date of such termination 5 of employment."

(2) after sub-section (3), the following new sub-section shall be inserted, namely,—

"(3A) If the authority hearing any application under sub-section (1) is satisfied that the applicant has incurred 10 expenses in travelling or otherwise for presenting such application or during the hearing of such application, the authority shall direct the employer to pay such costs, as may be calculated and found fit by the authority, to the successful applicant." 15

4. After section 15 of the principal Act, the following new section shall be inserted, namely,—

"15A. (1) In any proceedings under section 15, the applicant shall not be liable to pay any court fees (other than fees payable for service of process) in respect of such proceedings: 20

Provided that when the application is presented by an Inspector he shall not be liable to pay the process fees also.

(2) Where the applicant succeeds in such proceedings, the authority hearing the application shall calculate the amount of court fees which would have been payable by the applicant but 25 for sub-section (1) and direct the employer or other person responsible for the payment of wages under section 3 to pay such amount to the State Government. Such amount shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue." 30

Insertion
of new
section
15A.

Liability
for pay-
ment of
court fees.

STATEMENT OF OBJECTS AND REASONS

The Payment of Wages Act, 1936 applies to wages at an average of four hundred rupees a month or more. This wage limit of "four hundred rupees" was fixed in 1957. The pattern of the earnings of persons employed in industry has since undergone considerable changes and, therefore, this Act should now apply to wages of all amounts.

It is very often noticed that an employed person, while continuing in employment is not in a position to present an application under sub-section (2) of section 15 for various reasons. Therefore, the period of limitation laid down in this sub-section should run against the employee only from the date of the termination of his employment.

The Payment of Wages Act contains no provision for payment of costs to the applicant while the applicant has to incur a lot of expenses including pleader's fees, travelling expenses, etc. before his claim is admitted. Therefore, costs should be awarded to the applicant.

Clause 4 of the Bill has been drafted on the lines of section 5 of the Payment of Wages (Bombay Amendment) Act, 1953 with a view to having uniformity in all the States.

NEW DELHI;
The 3rd May, 1967.

S. C. SAMANTA.

FINANCIAL MEMORANDUM

The provisions of the Bill, when enacted, will involve additional expenditure from the Consolidated Fund of India. It is, however, not possible to indicate the amount of recurring and non-recurring expenditure that may be required. But to start with a non-recurring grant of rupees one lakh would appear to be necessary.

BILL No. 58 OF 1967

A Bill further to amend the Delivery of Books and Newspapers (Public Libraries) Act, 1954.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delivery of Books and Newspapers (Public Libraries) Amendment Act, 1967.

Short title,
extent
and com-
mence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force at once.

Amend-
ment of
section 2.

2. In part (b) of section 2 of the Delivery of Books and News-papers (Public Libraries) Act, 1954 (hereinafter referred to as the principal Act),—

5 27 of 1954.

(1) after the word "Calcutta", the words "the Parliament Library at New Delhi" shall be inserted.

(2) for the word "three", the word "two" shall be substituted.

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Amend-
ment of
section 3.

3. In sub-section (1) of section 3 of the principal Act,—

(1) after the word "Calcutta", the words "the Parliament Library at New Delhi" shall be inserted.

(2) for the word "three", the word "two" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

In free India, the Library of Parliament is as important a national institution as is the Congressional Library in the United States or the Library of the British Parliament. It is but meet and proper, therefore, that it should find a place beside the Calcutta National Library in the Act. The number of 'other' libraries is consequentially reduced from three to two, so as not to disturb or upset the scheme of the parent Act.

NEW DELHI;

S. C. SAMANTA.

The 3rd May, 1967.

BILL No. 68 OF 1967

A Bill further to amend the Companies Act, 1956.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Companies (Amendment) Act, 1967.

5 (2) It shall come into force at once.

1 of 1956.

2. After section 43A of the Companies Act, 1956 (hereinafter referred to as the principal Act), the following new section shall be inserted:

"43B. If a company, being a public company, alters its articles in such a manner that it becomes a private company, the company so altered shall cease to be entitled to the privileges and exemptions conferred on private companies by or under this Act, and this Act shall apply to the company so altered as if it were not a private company."¹⁰

Inser-
tion of
new
section
43B.
5

3. In sub-section (1) of section 224 of the principal Act—

Amend-
ment
of section
224.

(i) for the words "appoint an auditor or auditors", the words "select an auditor or auditors" shall be substituted; and

(ii) the words "and shall send the names of auditor or auditors so selected for appointment to the Central Government" ¹⁵ for approval" shall be added at the end.

4. In clause (a) of section 237 of the principal Act, after the words "to report thereon", the words "within three months" shall be inserted.

Amend-
ment
of section
237.
20

5. In sub-section (1) of section 247 of the principal Act, after the words "and report", the words "within six months" shall be inserted.

Amend-
ment
of section
247.

6. In section 250 of the principal Act, sub-sections (6) and (7) shall be omitted.

Amend-
ment
of section
250.

7. After section 250A of the principal Act, the following new section shall be inserted, namely:—

25 Insertion
of new
section
250AA

"250AA. Prosecution: If from any report made under sections 247, 248 and 249 above, it appears to the Central Government that any person other than a shareholder has been financially interested in the success or failure of the company or has been controlling ^{3d} or materially influencing the company or any person or persons are found having an interest in company or in body corporate or firm acting as Managing Agent, or body corporate, firm or individual is found as associate of the Managing Agents, Secretaries and ³⁵ treasurers of a company the Central Government

may after taking such legal advice as it thinks fit prosecute such person or persons or firm or body corporate for the offence, and it may cease the interest so held.”.

Amend-
ment
of section
275.

8. In section 275 of the principal Act, for the word “twenty”, the word “five” shall be substituted.

Amend-
ment
of section
332.

9. In section 332 of the principal Act, in sub-section (1), (2) and (5) for the word “ten”, wherever it occurs, the word “three” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Under the present Act, private companies are exempted from the restrictions imposed on public companies and are also entitled to certain privileges to which the public companies are not entitled. The result is that an increasing number of public companies are converting themselves into private companies. The purpose of this Bill is to discourage this tendency.

2. At present, the auditors are solely appointed by the companies and are therefore under their influence. To ensure proper auditing of the accounts of a company, this Bill seeks to provide that the auditors selected by companies will have to be approved by the Central Government.

3. At present no time limit has been laid down for the inspectors to send their reports with the result that the investigation takes too long. The Bill seeks to fix time limits for the purpose.

4. There is at present no provision for prosecution of any person allegations against whom have been provided under sections 247, 248 and 249. The Bill seeks to provide for this.

5. Under the present Act, a Director or Managing Agent can become Director of twenty and Managing Agent of ten companies respectively, at a time. The purpose of this amendment is to reduce the number.

DIWAN CHAND SHARMA.

NEW DELHI;
The 29th April, 1967.

BILL No. 67 OF 1967

A Bill further to amend the Gift-Tax Act, 1958.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Gift-Tax (Amendment) Act, 1967.

5 (2) It shall come into force at once.

18 of 1958. 2. In section 22 of the Gift-Tax Act, 1958 (hereinafter referred to as the principal Act), in sub-section (2), the following words shall be omitted, namely:—

Amend-
ment
of section
22.

“but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.”

3. In section 23 of the principal Act, sub-sections (3), (6), (7) and (8) shall be omitted.

Amend-
ment
of section
23.

4. In section 25 of the principal Act, in sub-section (3), for the figures, brackets and words “(3) and (5) to (10)” the figures, brackets and the words “(5) and (10)” shall be substituted.

Amend-
ment
of section
25.

5. In section 26 of the principal Act, sub-section (2) shall be omitted.

Amend-
ment
of section
26.

6. In section 35 of the principal Act, in sub-section (1), after the words “be punishable with”, the words “imprisonment for a term which may extend to three months or with” shall be inserted.

Amend-
ment
of section
35.

STATEMENT OF OBJECTS AND REASONS

Under the provisions of the present Act the assessee can appeal against the orders of Gift-tax Officers even after the date of expiry of appeal. He can also apply for reference to arbitration the question of disputed value of taxable gifts. This results in delaying the dispute regarding the fixation of value of taxable gifts. The purpose of the present Bill is therefore to delete these provisions so as to avoid the delay thus caused.

NEW DELHI;
The 29th April, 1967.

DIWAN CHAND SHARMA.

BILL NO. 69 OF 1967

A Bill further to amend the Foreign Exchange Regulation Act, 1947.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1967. Short title and commencement.
- 5 (2) It shall come into force at once.
- 7 of 1947. 2. In section 2 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), clauses (a) and (bb) shall be omitted. Amendment of section 2.

Omission
of section
19G.

Amend-
ment of
section
23.

Omission
of sections
23D, 23E
and 23F.

3. Section 19G of the principal Act shall be omitted.
4. In section 23 of the principal Act,—
 - (1) sub-section (1) shall be omitted and sub-section (1A) shall be renumbered as sub-section (1).

(2) in sub-section (1B), the words “or sub-section (1A) 5 and the authority adjudging any contravention under clause (a) of sub-section (1)” shall be omitted;

(3) in sub-section (2), for the word “two”, the word “one” shall be substituted; and

(4) in sub-section (3), clause (a) shall be omitted.
5. Sections 23D, 23E and 23F of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Under the present Act, the Director of Enforcement is alone responsible for enforcing the provisions of the Foreign Exchange Regulation Act and he is the only person who is to judge and decide whether adjudication proceedings should be started or not under this Act. He enjoys both executive and judicial powers and under Section 23(1) of the Act he can himself impose a penalty. He may or may not send the case to Court. The result is that unnecessary delay is caused and effective and quick action cannot be taken against those who contravene the provisions of this Act.

The Bill seeks to make the procedure simpler and more effective so that quick action may be taken against offenders under this Act and judicial functions may be separated from executive functions.

NEW DELHI;

DIWAN CHAND SHARMA

The 29th April, 1967.

BILL No. 62 OF 1967

A Bill further to amend the Prevention of Corruption Act, 1947.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Prevention of Corruption (Amendment) Act, 1967.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

Omission
of section
6.

2. Section 6 of the Prevention of Corruption Act, 1947 shall be omitted. 2 of 1947.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Corruption Act, 1947 is meant to prevent corruption among the public servants but section 6 of the Act creates many hindrances in prosecuting the public servants and stands as a stumbling block in the path of justice. It is accordingly proposed to amend the Act by repealing this section.

Hence this Bill.

NEW DELHI;

VISHWA NATH PANDEY.

The 8th May, 1967.

BILL No. 64 OF 1967

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short
title
and com-
mence-
ment.

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1967.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

5 of 1898.

2. In sub-section (1) of section 127 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the principal Act), for the word "Magistrate", the words "Magistrate of the first class" shall be substituted. Amend-
ment of section 127.
3. In section 128 of the principal Act, for the word "Magistrate", the words "Magistrate of the first class" shall be substituted. Amend-
ment of section 128.
4. In section 129 of the principal Act, after the words "the Magistrate of the highest rank", the words "not below the rank of a District Magistrate" shall be inserted. Amend-
ment of section 129.

STATEMENT OF OBJECTS AND REASONS

Since the attainment of independence, the power conferred on the Magistrates to disperse unlawful assemblies has not been used properly. All Magistrates cannot use power satisfactorily and according to the needs of the occasion. So, in order to safeguard the interests of the public, it is necessary that the power to disperse unlawful assemblies and the power to call armed forces should be conferred on the Magistrates of the first class and Magistrates not below the rank of District Magistrate, respectively.

Hence this Bill.

NEW DELHI;

VISHWA NATH PANDEY

The 7th May, 1967.

BILL No. 63 of 1967

A Bill further to amend the Code of Criminal Procedure, 1898.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1967. Short title and commencement.
- 5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint. Short title and commencement.

Amend-
ment of
Section
252.

5 of 1898.

2. In section 252 of the Code of Criminal Procedure, 1898, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) In any case instituted otherwise than on a police-report, when the accused appears or is brought before a Magistrate, such Magistrate shall follow the same procedure as is laid down in section 251A and supply to the accused copies of the evidence and other relevant documents produced or taken under inquiry under section 202."

STATEMENT OF OBJECTS AND REASONS

Section 252(1) of the Code of Criminal Procedure works great hardship on a complainant who is poor and cannot bear the expenses of litigation. If the complainant is compelled to prosecute the case to the end, it means not only financial burden but also involves great deal of worries and troubles. Therefore, in the interest of justice, it is necessary that after a *prima facie* case is established, it should become the duty of the State to prosecute the accused. The proposed changes are intended to serve this purpose.

Hence this Bill.

NEW DELHI;

VISHWA NATH PANDEY.

The 7th May, 1967.

BILL NO. 70 OF 1967**A Bill further to amend the Constitution of India.**

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

Short title.

1. (1) This Act may be called the Constitution (Amendment) Act, 1967.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

2. In article 134 of the Constitution, in clause (1), after sub-clause (b), the following sub-clause shall be inserted, namely:—

"(bb) has passed a sentence of death itself or confirmed such sentence passed by a sessions judge; or".

Amend-
ment of
article
13.

STATEMENT OF OBJECTS AND REASONS

The Constitution aims at providing equal opportunities to the citizens of India to get justice from the highest tribunal of the country. Death sentence is the highest punishment given by any competent court. Under a democratic Government, justice demands that a person who has been sentenced to death by a High Court must have the right to appeal to the Supreme Court without taking any permission from the High Court.

Hence this Bill.

NEW DELHI;

VISHWA NATH PANDEY.

The 7th May, 1967.

BILL No. 71 OF 1967

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1967.
2. In article 13 of the Constitution, in clause (2), for the words "any law which takes away", the words "any law, except law of this Constitution which takes away", shall be substituted.

3. After article 19 of the Constitution, the following articles shall be inserted, namely:—

Insertion
of new
articles
19A and
19B.

5 "19A. Notwithstanding anything contained in article 19 or in any other article of the Constitution, Parliament shall have power to make laws relating to the economic system in such manner as the economic system does not result in the concentration of wealth and means of production to the common detriment.

10 "19B. Notwithstanding anything contained in article 14 and article 19 or in any other article of the Constitution, Parliament shall have power to make laws for achieving social and economic justice for the citizens."

Laws re-
lating to
economic
system.

Insertion
of new
articles
368A and
368B.

4. After article 368 of the Constitution, the following articles shall be inserted, namely:—

15 "368A. For the purpose of amending the Constitution, both the Houses of Parliament shall be deemed as a Constituent Assembly meant for amending the Constitution.

House of
Parlia-
ment
to be
deemed
as a
Consti-
tuent
Assem-
bly.

368B. Notwithstanding anything contained in any part of the Constitution, Parliament shall have the power to amend any article of the Constitution."

Power of
Parlia-
ment to
amend
any arti-
cle.

STATEMENT OF OBJECTS AND REASONS

Since Parliament had passed a Resolution in 1954 regarding socialist pattern of society, which means achieving social and economic justice without concentration of economic power, it is necessary that Parliament should have sufficient power to make laws in order to regulate growth of monopoly and monopolistic tendencies. For that purpose, the Constitution should confer ample power on Parliament so that any law passed by Parliament may not be called in question by courts of law.

After the judgment of the Supreme Court relating to the Constitution (Seventeenth Amendment) Act, 1964, doubts have been raised whether the Constitution can be amended at all by Parliament. The Supreme Court in its majority judgment has observed that Parliament has no power to amend the Constitution in future. The insertion of new article 368A in the Constitution is necessary to avoid any legal complication that might arise out of the aforesaid judgment of the Supreme Court relating to the amendment of Constitution in future.

In order to avoid all doubts and make constitutional law absolutely clear, the amendments incorporated in the Bill are necessary.

K. R. GANESH.

NEW DELHI;

The 9th May, 1967.

BILL No. 72 of 1967

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Eighteenth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, Short title.
1967.
2. In article 102 of the Constitution, in clause (1), after sub-clause (e), the following sub-clause shall be added, namely:—

“(f) if he is a receiver of privy purse or any other honorarium in terms of money from the Government of India or from any State Government.”

Amend-
ment of
article
102.

STATEMENT OF OBJECTS AND REASONS

It is necessary that the former Rulers of the erstwhile Indian States, who are receiving privy purses, should be disqualified from becoming Members of Parliament or State Legislatures. This anachronistic system is given undue political advantage and is highly discriminatory. Hence this amendment of the Constitution.

NEW DELHI;

K. R. GANESH.

The 9th May, 1967.

S. L. SHAKDHER,

Secretary.